

Group V. Claims 41-42, drawn to a method of increasing the dosage of temozolomide that can be safely and effectively administered to a patient; and

Group VI. Claims 43-45, drawn to a method of reducing or preventing the adverse effects associated with the administration of thalidomide.

In addition, the Examiner has further required the following species elections for search purposes only:

- (1) should Group I or Group II be elected, the Examiner has required a species election between the treatment of a primary cancer or a metastatic cancer as well as the election of a single type of primary or metastatic cancer;
- (2) should Group II be elected, the Examiner has required a specific adverse effect to be elected from those set forth in claims 29-30;
- (3) should Group V be elected, the Examiner has required a specific adverse effect to be elected from those set forth in claim 42; and
- (4) should Group VI be elected, the Examiner has required a specific adverse effect to be elected from those set forth in claims 44-45.

The Examiner contends that the inventions of Groups I-VI are distinct from each other. Applicants respectfully traverse the Restriction Requirement and contend that to search and examine the subject matter of Groups I-VI together would not be a serious burden on the Examiner. The M.P.E.P. § 803 states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Applicants contend that a search and examination of the entire application could be made without serious burden because each of the claims comprises the use of both temozolomide and thalidomide. With respect to the requirement of a species election if Group I or Group II is elected, Applicants contend that a search directed to treatment comprising the

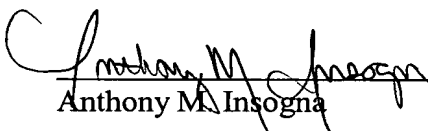
administration of temozolomide and thalidomide and "cancer" could be made without serious burden and would necessarily encompass all species (*i.e.*, types of cancer). With respect to the requirement of a species election if Group V or Group VI is elected, Applicants contend that a search directed to treatment comprising the administration of temozolomide and thalidomide and "adverse effect" could be made without serious burden and would necessarily encompass all species (*i.e.*, types of side effects). Thus, in view of M.P.E.P. § 803, Applicants contend that claims of Groups I-VI should be searched and examined together in the subject application. Accordingly, Applicant respectfully requests that Groups I-VI be examined in the subject application.

In order to be fully responsive, however, Applicants hereby elect, with traverse, to prosecute Group I, claims 1-21, drawn to methods of treating cancer. In response to the species election requirement, Applicants elect a metastatic cancer. In response to the requirement to elect a particular type of metastatic cancer, Applicants elect metastatic brain cancer.

Applicants believe that no fee is due in connection with this response. However, should the Patent Office determine that any other fee is necessary, Applicants hereby authorize that such fee be charged to Deposit Account No. 16-1150.

Respectfully submitted,

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